

Decision **PROPOSED DECISION OF ALJ HALLIGAN** (Mailed 5/26/2015)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Rural  
Water Company (U 311 W) and Golden  
State Water Company (U 133 W) for an  
Order Authorizing Rural Water Company  
to Sell and Golden State to Purchase the  
Assets of Rural Water Company

Application 13-10-011  
(Filed October 10, 2013)

**DECISION APPROVING REQUEST OF RURAL WATER COMPANY AND  
GOLDEN STATE WATER COMPANY FOR AN ORDER AUTHORIZING  
RURAL WATER COMPANY TO SELL AND GOLDEN STATE WATER  
COMPANY TO PURCHASE THE PUBLIC UTILITY ASSETS OF RURAL  
WATER COMPANY**

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GOLDEN STATE WATER COMPANY FOR AN ORDER AUTHORIZING  
RURAL WATER COMPANY TO SELL AND GOLDEN STATE WATER  
COMPANY TO PURCHASE THE PUBLIC UTILITY ASSETS OF RURAL  
WATER COMPANY**

**Summary**

This decision grants the joint motion for approval of a Settlement Agreement between Rural Water Company (Rural) and Golden State Water Company (Golden State) the Office of Ratepayer Advocates and the Cypress Ridge Owners Association under which Rural would sell, and Golden State would purchase, the public utility water assets of Rural. We have reviewed the terms of the Settlement Agreement and approve and adopt the Settlement Agreement that is appended to this decision as Attachment A.

Today's decision resolves all issues raised in this proceeding. This proceeding is closed.

**1. Procedural Background**

On October 10, 2013, Golden State Water Company (Golden State) and Rural Water Company (Rural) filed Application (A.) 13-10-011 requesting an order from the Commission authorizing Rural to sell, and Golden State to purchase, all of the public utility assets owned by Rural and used in Rural's provision of public utility water service in Rural's service territory in San Luis Obispo County. Golden State's acquisition of these assets would occur pursuant to an Asset Purchase Agreement entered into by Rural and Golden State authorizing Golden State to provide water service to the Rural water system pursuant to its Santa Maria ratemaking district tariff and authorizing Golden State to include the \$1.7 million purchase price for Rural's water utility assets in its rate base. A copy of the Asset Purchase Agreement is included in A.13-10-011

as Exhibit 1.<sup>1</sup> On October 10, 2013, Golden State and Rural concurrently served the prepared testimony of Rural witness Frank Brommenschinkel and Golden State witnesses Keith Switzer and Toby Moore in support of A.13-10-011. That prepared testimony is marked and received into evidence as Exhibits 9, 10, and 11, respectively.

Office of Ratepayer Advocates (ORA) and Cypress Ridge Owners Association (CROA) each filed protests to A.13-10-011 on November 25, 2013, and December 2, 2013, respectively.

On February 27, 2014, Golden State and Rural filed an Amendment to A.13-10-011 to incorporate into the application the First Amendment to the Asset Purchase Agreement, entered into by Golden State and Rural on February 26, 2014 (First Amendment). The First Amendment addresses issues related to the provision of sewer service by Cypress Ridge Sewer Company (Cypress Ridge Sewer) to a subset of Rural's water customers located in the Cypress Ridge subdivision and states that consideration of issues related to the provision of sewer service to these customers would be accomplished in a separate filing with the Commission.<sup>2</sup> Along with the Amendment, Golden State and Rural submitted the revised prepared testimony of Keith Switzer. The revised prepared testimony is marked and received into evidence as Exhibit 12.

On March 4, 2014, CROA filed a motion to consolidate A.13-10-011 with two separate proceedings: 1) Advice Letter (AL) No. 68, related to Rural's request to recover certain costs associated with its participation in the

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<sup>1</sup> A.13-10-011 also includes Exhibits 2-8.

<sup>2</sup> Amendment to A.13-10-011, Attachment 1 at Section 2.

Santa Maria adjudication; and 2) the proceeding that is contemplated in the First Amendment related to the provision of sewer service to the Cypress Ridge subdivision.

A prehearing conference (PHC) was held on March 5, 2014 to discuss the scope of issues in this proceeding and the procedural schedule for resolving the issues. At the PHC, the parties agreed to participate in the California Public Utilities Commission's (Commission) alternative dispute resolution (ADR) program. On April 4, 2014, Administrative Law Judge (ALJ) Long was assigned to handle ADR proceedings in A.13-10-011 as the ADR neutral.<sup>3</sup> The parties convened a settlement conference beginning on May 22, 2014, with notice and opportunity to participate served on all interested parties. Representatives of the parties met with ALJ Long on May 22, 2014, engaging in substantive settlement discussions on the issues presented in A.13-10-011. The settlement discussions continued for several weeks, resulting in the execution of the Settlement Agreement by all parties and the filing of the joint motion for approval of the Settlement Agreement on July 18, 2014.

No party filed any opposition to the Joint Motion or requested that hearings be held on the Settlement Agreement.

On February 19, 2015, in response to a February 5, 2015, ALJ ruling requesting additional information (Ruling), the joint parties filed additional information regarding the terms of Section 6.0 of the Settlement Agreement, concerning sewer service to the Cypress Ridge development. On February 23, 2015, the Commission held a second PHC to further discuss the Settlement Agreement.

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<sup>3</sup> April 4, 2014, Notice of Assignment for Alternative Dispute Resolution at 1.

## **2. The Application**

Rural and Golden State are both public utilities as defined by Section 216 of the Public Utilities Code. Rural is a Class C water utility that serves approximately 950 customer connections in its service territory located in the northern area of the Nipomo Mesa in San Luis Obispo County. In 2012, Rural had annual revenues of approximately \$917,000.<sup>4</sup>

Golden State is a Class A water utility serving approximately 260,000 customer connections in nine separate ratemaking areas within ten counties throughout California with annual revenues in 2012 of \$342 million. Golden State is a regulated subsidiary of American States Water Company, a publicly traded corporation. Golden State has over 500 employees and is the second-largest water utility regulated by the Commission, and the third largest investor-owned water utility in the United States based on market capitalization.<sup>5</sup> Golden State divides its service territory into three geographic regions: Region 1, which includes customer service areas (CSAs) in northern California and California's central coast, and Regions 2 and 3, which include CSAs in southern California.

Golden State provides water service to approximately 13,400 customer connections in its Santa Maria CSA, located in its Region 1, through five non-contiguous water systems in the Orcutt, Nipomo, Tanglewood, Lake Marie and Sisquoc communities.<sup>6</sup> Golden State's Santa Maria CSA is located in close

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<sup>4</sup> Application A.13-10-011 at 3.

<sup>5</sup> Exhibit 5 at 3.

<sup>6</sup> Exhibit 10 at 4.

proximity to the Rural water system – the Nipomo water system is located approximately six miles from the Rural water system.<sup>7</sup>

Cypress Ridge is a planned development of homes located on the central coast in Arroyo Grande, California. The CROA is a non-profit mutual benefit corporation representing the residents and homeowners of the Cypress Ridge development. The Cypress Ridge development consists of approximately 375 customers out of the 932 total Rural customers located in San Luis Obispo County.<sup>8</sup> The members of CROA comprise virtually the entire customer base of Cypress Ridge Sewer.

In A.13-10-011, Rural and Golden State request that the Commission issue an order authorizing Rural to sell, and Golden State to purchase, all of the public utility assets owned by Rural and used in Rural's provision of public utility water service in Rural's service territory in San Luis Obispo County, California. The acquisition of the assets by Golden State would occur pursuant to the Asset Purchase Agreement entered into by Rural and Golden State on June 12, 2013. Rural and Golden State explain that Golden State is not purchasing the facilities that Rural shares with Cypress Ridge Sewer related to Cypress Ridge Sewer's provision of sewer service to the same customers of the Rural water system. Cypress Ridge Sewer would continue to provide sewer service to those customers.

Consistent with the terms of the Asset Purchase Agreement, Rural and Golden State request that the Commission take the following actions: 1) relieve Rural of its obligation to provide public utility water service to customers within its service territory; 2) expand Golden State's certificate of public convenience

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<sup>7</sup> Exhibit 10, Appendix B.

<sup>8</sup> December 2, 2013, Protest of Cypress Ridge at 3.

and necessity (CPCN) to permit it to provide public utility water service to current and future customers in Rural's service territory; 3) establish Rural's current rates for water service in the existing Rural service territory as Golden State's rates until the resolution of A.14-07-006, Golden State's next General Rate Case (GRC); 4) establish a rate base for the acquired assets consisting of the \$1.7 million purchase price for the assets; 5) adopt the proposed ratemaking treatment as described and requested in the application; 6) authorize Golden State to incorporate the Rural water system into Golden State's Santa Maria ratemaking district, and set rates for the current Rural customers based upon the Santa Maria ratemaking district tariff during the next GRC cycle.

Pursuant to the Asset Purchase Agreement, Rural will sell, and Golden State will purchase, all of the assets that comprise the Rural water system, including all real property, improvements, easements, rights of way, infrastructure, tanks, wells, mains, hydrants, franchise/license agreements, permits, contracts, tangible personal property, intangible property, records, equipment, machinery, furniture, tools, and other facilities necessary to provide domestic water service in Rural's service territory. Applicants Rural and Golden State explain that the Rural water system has been owned and operated by Charles Baker since 1988, and that, due to Mr. Baker's advancing age, and the fact that Mr. Baker does not have any family members that are interested in taking over the operations of the company, it is in his and his customers' best interest for him to sell the Rural water system.<sup>9</sup>

Applicants also explain that the proposed ratemaking treatment for the Rural assets is consistent with the Public Water System Investment and

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<sup>9</sup> Exhibit 9 at 4.



Consolidation Act (Consolidation Act), codified in Public Utilities Code Sections 2718-2720. According the Applicants, the Consolidation Act was enacted by the legislature to facilitate the acquisition of small water systems by Class A water utilities. Specifically, Public Utilities Code Section 2720 (a) provides that the Commission “shall use the standard of fair market value when establishing the rate base for the distribution system of a public water system acquired by a water [utility]. This standard shall be used for ratesetting.”

Applicants further explain that Golden State is the logical choice to take over the Rural water system, since Golden State is the only Class A water utility that operates in San Luis Obispo County, where the Rural system is located.

As noted above, on February 27, 2014, Rural and Golden State filed an Amendment to A.13-10-011, to incorporate the First Amendment to the Asset Purchase Agreement into the record in this proceeding. Rural and Golden State explain that the First Amendment is intended to clarify that any transfer of assets from Rural to Cypress Ridge Sewer related to the provision of sewer service, requires Commission approval and shall be accomplished by Rural through a separate filing with the Commission. The First Amendment requires Rural to seek Commission approval to transfer its CPCN authorizing Rural to provide sewer service to the Cypress Ridge Development to Cypress Ridge Sewer and to seek the Commission’s approval to transfer pursuant to Section 851 of the Public Utilities Code, the building referenced in Article 5 of the Asset Purchase Agreement, as well as all of Rural’s other sewer assets to Cypress Ridge Sewer.

In Decision (D.) 02-06-005, issued on June 6, 2002, the Commission granted Rural a CPCN authorizing Rural to provide sewer service to the Cypress Ridge subdivision. The Commission also directed Cypress Ridge Service Company, a

subsidiary of the developer of the Cypress Ridge subdivision, to transfer its sewer system property to Rural.<sup>10</sup> Pursuant to the Commission's order, Rural has operated the sewer system as an independent operating unit from Rural's water utility business since that time. In 2008, this separate operating unit was incorporated as the Cypress Ridge Sewer. However, Rural never filed an application or advice letter with the Commission formally transferring either its CPCN to operate a sewer system or its sewer assets to the newly formed Cypress Ridge Sewer. Nevertheless, since the formation of Cypress Ridge Sewer in 2008, the Commission has approved several advice letter filings made by Cypress Ridge Sewer related to the provision of sewer service, including the approval of an amended tariff indicating that Cypress Ridge Sewer is the utility providing sewer service to the Cypress Ridge subdivision.<sup>11</sup>

In addition to requiring Rural to seek Commission approval of the transfer of its CPCN and all of Rural's other sewer assets to Cypress Ridge Sewer, the First Amendment also explains and addresses the two companion agreements between Cypress Ridge Sewer and Golden State in light of the agreed-upon filing by Rural to transfer its sewer CPCN and assets to Cypress Ridge Sewer

The First Amendment states:

"at the time of the executing of the Agreement, Seller [Rural], Buyer [Golden State], and Cypress Ridge were under the belief that Cypress Ridge held a certificate of public convenience and necessity ("CPCN"), or had the right to rely on Seller's CPCN, from the California Public Utilities Commission (Commission) to own and operate a sewer system and provide sewer utility service to certain properties in San Luis Obispo County, California. Similarly, at the time

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<sup>10</sup> D.02-06-005 at Ordering Paragraph 3.

<sup>11</sup> Amendment to Exhibit 1.

of executing the Agreement, Seller, Buyer, and Cypress Ridge were under the belief that Cypress Ridge owned sewer system assets (other than the Building), or had the right to rely on Seller's sewer system assets, as necessary to provide such sewer utility service. Subsequent to the execution of the Agreement, Seller, Buyer, and Cypress Ridge determined that Seller should file an appropriate request with the Commission to convey its CPCN for ownership and operation of the sewer system and provision of sewer utility service, and its sewer system assets, to Cypress Ridge."<sup>12</sup>

The water and sewer operation of Rural currently share a building in the service territory which houses various fixtures and equipment used to provide the utility services. The First Amendment requires Rural, Cypress Ridge Sewer and Golden State to enter into a Shared Facilities Agreement to provide for the shared use of the building between Rural and Golden State until the building is formally transferred to Cypress Ridge Sewer, at which time Cypress Ridge Sewer will share the building with Golden State under the same terms and conditions.<sup>13</sup>

The First Amendment also requires Golden State and Cypress Ridge Sewer to enter into a Billing Service Agreement upon the later of (i) the Commission's approval of this A.12-13-011 or (ii) the transfer of the CPCN from Rural to Cypress Ridge Sewer.

Applicants Rural and Golden State explain that the First Amendment is intended to ensure that the outcome of Rural's request for Commission authorization to transfer the sewer CPCN and assets to Cypress Ridge Sewer has no bearing on Golden State's acquisition of Rural's water assets. Pursuant to the First Amendment, if the Commission grants Rural's request, Cypress Ridge

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<sup>12</sup> February 27, 2014, Amendment to A.13-10-011, Attachment 1, Section D.

<sup>13</sup> *Id.*, at Section 3.

Sewer will provide sewer service, share the building with Golden State, and bill its customers via the Billing Services Agreement. If the Commission rejects Rural's request, Rural will provide sewer service, share its building with Golden State, and either continue to bill its sewer customers on its own or via a billing services agreement with Golden State.

### **3. Protests**

ORA filed a protest to A.13-10-011 expressing concern related to the reasonableness of the \$1.7 million purchase price and Golden State's proposed ratemaking treatment for the purchase price. CROA also filed a protest to the application. CROA expressed concern regarding the potential impact of the acquisition on the rates paid by Rural's current customers. Specifically, CROA's protest raised issues related to the obligations related to Rural's participation in pending litigation in Santa Clara County and San Luis Obispo County Superior Court to adjudicate the water rights in the Santa Maria basin, the sole water supply for the Rural water system (the Santa Maria Adjudication). CROA objected to Rural's participation in a Stipulation entered into by a majority of the parties (including Golden State and Rural) in the Santa Maria Adjudication, which was approved by the trial court in 2005 (the "Stipulation"). CROA also expressed concern that Cypress Ridge Sewer holds no operating authority permitting it to operate a sewer system in its current service area and any transfer of Rural to Cypress Ridge Sewer that may have occurred in the past is void if it was undertaken without Rural obtaining the proper Commission authority pursuant to Section 851 of the Public Utilities Code. CROA requested that a further showing be made regarding the effect of the transaction on the ratepayers of Cypress Ridge Sewer, specifically, whether the building transferred to Cypress Ridge Sewer will be included in the rate base of Cypress Ridge Sewer

and whether the ratepayers will be required to bear Golden State's charges to Cypress Ridge Sewer for billing services.

#### **4. Settlement Agreement**

The basic terms of the Settlement Agreement include the sale of Rural's water system assets to Golden State for \$1.7 million as set forth in the Asset Purchase Agreement, the relief of Rural from its public utility water obligations, the extension of Golden State's CPCN to serve the customers of the Rural water system, and the inclusion of the Rural water system in Golden State's Santa Maria CSA. In addition, the Settlement Agreement would establish Rural's current rates for water service in Rural's service territory as Golden State's rates for customers in Rural's current service territory until rates are set by the Commission in Golden State's 2014 GRC;<sup>14</sup> would establish and authorize a total rate base for the acquired assets of \$1.7 million to be implemented in Golden State's 2014 GRC; would authorize Golden State to consolidate the Rural service territory with Golden State's current Santa Maria CSA; would set rates for the current Rural customers based upon the Santa Maria ratemaking district tariff in Golden State's 2014 GRC; and would approve the Shared Facilities Agreement and Billing Services Agreement attached to the Asset Purchase Agreement (as Amended by the First Amendment).

In addition, the Settlement Agreement provides that the Commission should authorize Rural to participate in the Stipulation, including Rural's participation in the construction and maintenance of a new water supply pipeline connecting the City of Santa Maria to the Nipomo Mesa -- the Nipomo Supplemental Water Supply Project. All costs associated with Rural's

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<sup>14</sup> Golden State's 2014 GRC is A.14-07-006.

participation in the Stipulation shall become Golden State's costs upon acquisition by Golden State of Rural's water assets. Upon the incorporation of the Rural water system into Golden State's Santa Maria CSA, these costs, as well as Golden State's other costs of participation in the Stipulation approved by the Commission in D.13-05-011, should be included in the revenue requirement of the Santa Maria CSA.

Section 4.2 of the Settlement Agreement provides that the Commission should authorize Golden State to establish a new memorandum account to record the \$45,159 in Nipomo Mesa Management Area (NMMA) fees that have been assessed to Rural, and for which Rural has requested recovery of in Advice Letter (AL) No. 68. The balance of the memorandum account will be included in the revenue requirement of the Santa Maria CSA and recovered by a surcharge, subject to the Commission's reasonableness review of the actual costs recorded.

Section 4.3 of the Settlement Agreement states that the \$128,611.83 in legal costs that have been incurred by Rural related to its participation in the Stipulation and Santa Maria Adjudication, and for which Rural has requested recovery through AL No. 69, shall be recorded in Golden State's existing Santa Maria Water Rights Memorandum Account. These legal costs would be amortized and recovered in the same manner as the other costs in the Santa Maria Memorandum Account.

Section 5.1 of the Settlement Agreement provides that Golden State's ratemaking proposal set forth in A.13-10-011 would be adopted with the following modification: Golden State shall be authorized to record \$375,000 of the \$1.7 million purchase price in Golden State's General Office rate base, and to record the remaining \$1,325,000 in Golden State's Santa Maria CSA rate base. The \$375,000 recorded in Golden State's General Office rate base shall be

depreciated and recovered over an eight year period beginning with the rates to be implemented in Golden State's 2014 GRC. The \$1,325,000 recorded in Santa Maria's rate base shall be depreciated using Santa Maria's average composite rate, beginning with rates to be implemented in Golden State's 2014 GRC.

The Settlement Agreement also provides that within 60 days of the Commission's approval of the Settlement Agreement, and the transfer of Rural's water assets to Golden State, Rural shall pursue one of the following options to address the provision of the sewer service to the Cypress Ridge subdivision:

- a) Rural shall work with Cypress Ridge Sewer to file an application with the Commission for a CPCN pursuant to Section 1001 of the Public Utilities Code. If Cypress Ridge Sewer does so, Rural shall file a Section 851 application requesting Commission authorization to transfer all of Rural's sewer utility assets to Cypress Ridge Sewer upon certification of Cypress Ridge Sewer
- b) Rural shall change its name to Rural Sewer Company, Inc. and request Commission approval to amend the current Cypress Ridge Sewer tariffs to reflect that sewer service is provided by Rural Sewer Co., Inc. In this event, Rural shall obtain from Cypress Ridge Sewer all easements and other assets related to the provision of sewer service.
- c) Rural, in conjunction with Cypress Ridge Sewer, shall seek Commission authorization pursuant to Public Utilities Code Section 854 to merge, with Rural to survive, and thereafter Rural shall be renamed Cypress Ridge Sewer.

#### **4.1. Discussion**

Proposed water utility ownership changes are reviewed under Sections 851 through 854 of the Public Utilities Code. These code sections require the Commission to find that a proposed sale or transfer of public utility property is in the public interest prior to approval of the sale. In addition, Rule 12.1

*Proposal of Settlements*, specifically addresses the requirements for adoption of proposed settlements, subject to certain limitations in Rule 12.5, *Adoption Binding, Not Precedential*. Rule 12.1 (a) states:

Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant and, in complaints, by the complainant and defendant.

The motion shall contain a statement of the factual and legal considerations adequate to advise the California Public Utilities Commission (Commission) of the scope of the settlement and of the grounds on which adoption is urged. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

Rule 12.1 (d) provides that:

The California Public Utilities Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.



Rule 12.5 limits the future applicability of a settlement:

California Public Utilities Commission (Commission) adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

The record in this proceeding consists of all filed documents and all exhibits received into evidence. The Settlement Agreement fully describes the terms and agreement between the parties. Based upon the record in this proceeding, we find the parties complied with Rule 12.1 (a) by making the appropriate filings and noticing a settlement conference.

The Settlement Agreement describes several compelling reasons why the Settlement should be approved. First, the Settlement is supported by all of the active parties in the proceeding, each of which represents different interests. The signatories to the Settlement Agreement include the applicants, Rural and Golden State, ORA, representing of residential and small commercial customers generally, and CROA, representing the Cypress Ridge subdivision customers specifically. Each of the signatories has been an informed, active participant in the proceeding and has reached an agreement that balances their own interests in the proceeding with the interests of the other active parties. ORA engaged in written discovery seeking additional information regarding the application, including the fair market value of the assets being purchased, the impacts of the acquisition on existing ratepayers and employees of Rural and Golden State, the effect of the acquisition on Rural's obligations under the Santa Maria

Adjudication, and the mechanics of Golden State's ratemaking proposal.<sup>15</sup> CROA served written discovery related to whether Cypress Ridge Sewer had obtained a CPCN to provide sewer service. All parties also engaged in settlement discussions to analyze and explore the issues in detail. The Settlement Agreement therefore reflects the investment of a substantial amount of time by all parties and a balancing of different issues by parties with divergent interests.

Next, the Settlement Agreement supports the Commission's policy objective of maintaining the highest standards of water quality by supporting the acquisition of a small water utility by a larger water utility. The Commission's 2010 Water Action Plan notes that:

Smaller water companies often do not have the resources or expertise to operate in full compliance with increasingly stringent and complex water quality regulations. Many water companies are too small to be viable in the long-term, raising questions as to whether they will be able to continue to provide clean and reliable water in the future. DPH [Department of Public Health] requests Class A utilities (over 10,000 connections) to report on an annual basis which smaller utilities they might consider purchasing.<sup>16</sup>

Golden State is an experienced water utility that provides water service to more than a quarter of million customer connections in the State of California, including customers in close proximity to the Rural water system in Golden State's Santa Maria CSA. Rural would be the sixth non-contiguous water system in Golden State's Santa Maria CSA. Golden State can be reasonably expected to maintain or improve the reliability and water quality of the Rural water system.

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<sup>15</sup> Joint Motion at 6.

<sup>16</sup> 2010 Water Action Plan at 9.

Although there is no evidence on the record in this proceeding that the reliability or water quality currently provided to Rural customers is lacking, Rural customers are expected to benefit from the service of Golden State's experienced staff of water treatment operators, distribution operators, and supervisors in the Santa Maria CSA, who will continue to address the water quality and operational issues facing all of the water systems in this region, including the Rural water system.<sup>17</sup> The Joint Motion explains that Rural customers will also benefit from the efficiencies and economies of scale inherent in becoming a part of the collective operation of Golden State's Santa Maria CSA, including Golden State's better access to capital markets, Golden State's customers service representatives, and Golden State's low income assistance programs.

The Settlement Agreement would also resolve the highly contested issues related to Rural's involvement in the Santa Maria Adjudication and participation in the Stipulation. As explained by Rural and Golden State, both Rural and Golden State were sued in 1997 in a lawsuit brought to adjudicate the water rights in the Santa Maria basin, the sole water supply for the Rural water system and Golden State's Nipomo water system. After several years of litigation, a majority of the parties, including Golden State and Rural settled their dispute through a stipulation that was approved by the trial court in 2005 (the "Stipulation"). Under the Stipulation, both Rural and Golden State agreed to a determination of their water rights and committed to share a portion of the construction costs for a new water supply pipeline connecting the City of Santa Maria to the Nipomo Mesa, known as the Nipomo Supplemental

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<sup>17</sup> Joint Motion at 9.

Water Project (NSWP). The Stipulation also obligates both Golden State and Rural to share in ongoing groundwater basin management expenses.<sup>18</sup>

On April 29, 2011, Rural filed AL No. 68 requesting that the Commission approve of Rural's participation in the Stipulation as well as recovery of certain costs related to its participation in the Stipulation. On May 13, 2013, we issued D.13-05-011 in Golden State's 2012 General Rate Case (GRC) and authorizing Golden State to participate in the Stipulation, including participation in the construction and maintenance of the NSWP. As we explained in D.13-05-011:

"The Stipulation is beneficial to Golden State's customers in the Santa Maria CSA because it secures Golden State's water rights in the Santa Maria Basin, provides mechanisms for ensuring the reliability of those rights, and requires Golden State to bear only its proportional share of the costs that must be incurred in order to preserve those rights. Approval of Golden State's entry into the Stipulation will secure Golden State's right to rely on the Santa Maria Basin for sufficient quantities of water needed to meet current and anticipated future demands of Santa Maria CSA customers."<sup>19</sup>

Section 4.1 of the Settlement Agreement, which provides that, subject to Golden State's acquisition of the Rural water assets, the Commission should authorize Rural to participate in the Stipulation, including Rural's participation in the construction and maintenance of the NSWP, is consistent with D.13-05-011. Rural's participation in the Stipulation is reasonable and beneficial to the customers of the Rural water system.

We also find that Section 4.2 of the Settlement, in which the parties recommend that the Commission should authorize Golden State to establish a

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<sup>18</sup> Exhibit 10 at 2.

<sup>19</sup> D.13-05-011 at 56.

new memorandum account to record the \$45,159 in NMMA fees that have been assessed to Rural, and for which Rural requested the Commission authorize recovery in AL No. 68 reasonable as well.

Similarly, we find that Section 4.3 of the Settlement Agreement, which provides that the \$128,611.83 in legal costs that have been incurred by Rural related to its participation in the Stipulation and Santa Maria Adjudication, and for which Rural has requested the Commission authorize recovery of in AL No. 69, should be recorded in Golden State's existing Santa Maria Water Rights Memorandum Account, and recovered pursuant to the existing terms of that account. Pursuant to Section 4.4 of the Settlement Agreement, upon the Commission's approval of the Settlement and acquisition by Golden State of Rural's water utility assets, Rural's AL No. 68 and AL No. 69 shall be deemed to be withdrawn.

While the sale and purchase of the water assets of Rural's water utility are reasonable, approval of the Settlement Agreement and the sale of Rural's water utility assets will result in the creation of a stand-alone sewer utility. Under the terms of Section 6.0 of the Settlement Agreement, Rural and Cypress Ridge will select one of three options to ensure the appropriate certification and authority for the sewer utility. Under the first option, Cypress Ridge will file an application for a CPCN and Rural would then file an application under Section 851 to transfer the sewer assets to Cypress Ridge. Under the second option, Rural would change its name to Rural Sewer Company and request authority to revise its tariffs as necessary to reflect the new name. The third option would consist of Rural and Cypress Ridge filing a Section 854 application to merge the two entities, with the remaining entity being named Cypress Ridge Sewer Company.

While we find the approach recommended in Section 6.0 of the Settlement Agreement reasonable, we note that Settlements may not bind the Commission to predetermined findings or decision regarding future applications. Therefore, we consider Section 6.0 of the Settlement Agreement to reflect the settling parties' recommendation to the Commission. With this clarification, we find, pursuant to Rule 12.5, that the proposed Settlement Agreement would not bind the Commission or otherwise impose a precedent in this or any future proceeding.

Because Cypress Ridge's sewer service is critical to the public health and safety of its customers, on February 5, 2015, the ALJ requested that Rural and Golden State provide additional information to demonstrate that Cypress Ridge will continue to have the ability to operate and provide public utility sewer service to its customers consistent with all applicable codes, rules and laws. Specifically, Public Utilities Code Section 451 requires Rural, and Cypress Ridge Sewer, to continue to operate their sewer system in a manner that promotes the health and safety of the ratepayers.

In response to the February 5, 2015, ruling, Rural and Golden State stated that irrespective of the choice that Rural makes pursuant to Section 6.0 of the Settlement Agreement and the three options described above, the entity that owns and operates the sewer company "will continue to have the ability to do so in full compliance with applicable codes, rules, and laws."<sup>20</sup> Rural and Golden State further state that the "same individuals that currently own and operate the sewer system will continue to own and operate the sewer system, regardless of

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<sup>20</sup> Joint Response of Golden State Water Company, Rural Water Company, the Office of Ratepayer Advocates, and the Cypress Ridge Owners Association to ALJ Halligan's request for information, dated February 19, 2015, at 3.

the ultimate entity that is confirmed by the Commission as the sewer utility,” noting that “the owner, Mr. Baker, has provided all the necessary funding for the sewer system’s capital budget and operations and maintenance expenses since the CPCN for the sewer system was granted by the Commission on June 6, 2002,” and that “the sale of Rural’s water system assets to Golden State will provide additional cash reserves for required capital investment, and to ensure regulatory compliance in the future.”<sup>21</sup>

According to Rural and Golden State, the current licensed operator of the sewer system, Eric Sweeney, will continue to operate the sewer system after Golden State’s acquisition of Rural’s water utility assets. Rural and Golden State also explain that approval of the Settlement Agreement is not expected to impact the rates for customers of Cypress Ridge Sewer. Rates will continue to be set by the Commission pursuant to the normal ratemaking procedures. Cypress Ridge Sewer’s last GRC was for Test Year 2008. A subsequent GRC was filed on September 3, 2013, and was later rejected on December 9, 2014. Upon resolution of the CPCN issues to be addressed in accordance with Section 6.0 of the Settlement Agreement, Cypress Ridge Sewer, or the emerging sewer entity, will file another GRC.

Based on the terms of the Settlement Agreement and the process the parties went through in assessing their positions and agreeing on the Settlement terms, we conclude that the Settlement Agreement is reasonable in light of the record, consistent with the law, and in the public interest. Accordingly, the Settlement Agreement attached to this decision is approved.

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<sup>21</sup> *Id.*, at 4.

However, in light of the fact that the owner of Rural and Cypress Ridge Sewer, Mr. Baker, is of advancing age and does not have any family members that are interested in taking over the operations of the company, it is also reasonable to anticipate that Mr. Baker will in all likelihood desire to sell or transfer Cypress Ridge Sewer to another owner within the next decade. In order to ensure that Cypress Ridge remains able to provide sewer service to its ratepayers in the foreseeable future, we will require Rural and Cypress Ridge Sewer to each include in either their next GRCs or by December 31, 2018, whichever occurs first, a recommended plan for the future continuation of sewer service to Cypress Ridge. Rural and Cypress Ridge Sewer, may identify and propose any recommendations or incentives they believe are necessary and reasonable to accomplish the continuation of sewer service, including the future sale, purchase or merger of the sewer company consistent with the Commission jurisdiction, any applicable laws, and the public interest.

## **5. Categorization and Need for Hearing**

In Resolution ALJ-176-3325, dated October 31, 2013, the Commission preliminarily determined that the category of this proceeding is ratesetting as defined in Rule 1.3(e), and that no hearing was necessary. At the PHC held on March 5, 2013, the parties agreed to participate in ADR prior to scheduling hearings. Today's decision confirms the preliminary categorization and also confirms the ALJ finding that no hearings are necessary.

## **6. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on June 15, 2015, by Golden State, Rural, ORA and Cypress



Ridge Sewer (jointly.) Comments were also filed on June 15, 2015, by Rural Water separately.

## **7. Assignment of Proceeding**

Commissioner Carla J. Peterman is the assigned Commissioner and Julie M. Halligan is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. The prepared testimony of Rural witness Frank Brommenschenkel, and Golden State witnesses Keith Switzer and Toby Moore, is marked and received into evidence as Exhibit 9, Exhibit 10 and Exhibit 11, respectively.
2. The revised prepared testimony of Golden State witness Keith Switzer is marked and received into evidence as Exhibit 12.
3. If approved, the Settlement Agreement between Rural Water Company, Golden State Water Company, the Office of Ratepayer Advocates, and the Cypress Ridge Owners Association would result in the sale by Rural to Golden State of Rural's water utility assets.
4. There is a full and complete record composed of all filed documents and all exhibits received into evidence.
5. The proposed settlement was uncontested.
6. The Settlement Agreement is supported by all active parties to this proceeding.
7. The Settlement Agreement represents a balance of the issues by parties with divergent interests.
8. Approval of the Settlement Agreement would benefit Rural's water utility customers.
9. Approval of the Settlement Agreement and the sale of Rural's water utility assets will result in the creation of a stand-alone sewer utility.

10. Sewer service is critical to the public health and safety of Cypress Ridge Sewer Company's customers.

**Conclusions of Law**

1. The adopted Settlement Agreement is between competent parties who were able to make informed choices in the settlement process. .
2. The Settlement Agreement is reasonable in light of the record, consistent with the law, and in the public interest.
3. Rural Water Company should be permitted to sell, and Golden State Water Company to purchase, the water utility assets of Rural Water Company.
4. The Settlement Agreement appended to this decision as Attachment A should be approved.
5. The proposed Settlement Agreement would not bind or otherwise impose a precedent in this or any future proceeding.
6. Because the continuation of safe and reliable sewer service is critical to the health and safety of the public, Rural and Cypress Ridge should each be required to include in their next GRC, or by December 31, 2018, whichever occurs first, a recommended plan for the future continuation of sewer service.
7. This decision should be effective today.
8. The proceeding should be closed.

**O R D E R****IT IS ORDERED** that:

1. The July 18, 2014, Settlement Agreement, which is appended to this decision as Attachment A, is approved and the revenue requirement, terms, and conditions set forth in the Settlement Agreement shall be adopted.

2. Rural Water Company is authorized to sell, and Golden State Water Company is authorized to purchase the water utility assets of Rural Water Company as set forth in Attachment A to this decision.

3. Upon Golden State Water Company's acquisition of Rural Water Utility's water utility assets Rural Water Company shall be relieved of its public utility water obligations.

4. Upon Golden State Water Company's (Golden State) acquisition of Rural Water Utility's water utility assets, Golden State is authorized to expand its Certificate of Public Convenience and Necessity and its Santa Maria Customer Service Area to permit it to provide public water utility service to the customers of Rural Water Company's service territory.

5. Upon Golden State Water Company's (Golden State) acquisition of Rural Water Utility's water utility assets, Rural Water Company's current rates for water service in Rural Water Company's service territory shall become Golden State's rates for customers in Rural Water Company's service territory until rates are set by the Commission in A.14-07-006, Golden State's General Rate Case.

6. The total rate base for the acquired assets \$1.7 million shall be implemented in A.14-07-006 Case in accordance with Section 5.1 of the Settlement Agreement included in this decision as Attachment A.

7. Golden State Water Company (Golden State) may record \$375,000 of the \$1.7 million purchase price in Golden State's general office rate base, and record the remaining \$1,325,000 in Golden State's Santa Maria Customer Service Area rate base.

8. Golden State Water Company (Golden State) shall consolidate the Rural Water Company service territory with Golden State's current Santa Maria

Customer Service Area, and set rates for the current Rural customers based on the Santa Maria ratemaking district tariff in A.14-07-006.

9. Golden State Water Company may file an Advice Letter (AL) to establish a new memorandum account to record the \$45,159 in Nipomo mesa Management Account fees that have been assessed to Rural Water Company. Golden State Water Company may recover legal costs associated with Rural Water Company's participation in the Stipulation and Santa Maria Adjudication of \$128,611.83. These costs shall be amortized and recovered by Golden State Water Company in the same manner as the other costs in the Santa Maria Water Rights Memorandum Account.

Upon acquisition by Golden State Water Company of the Water Utility Assets of Rural Water Company pursuant to this decision, Rural Water Company's AL No. 68 and AL No. 69 shall be deemed to be withdrawn.

10. Rural Water Company shall elect one of the following options to address the provision of sewer service to the Cypress Ridge subdivision within 60 days of the effective date of this decision:

- a. Rural Water Company shall work with Cypress Ridge Sewer Co. to file an application with the Commission for a Certificate of Public Convenience and Necessity pursuant to Section 1001 of the Public Utilities Code. If Cypress Ridge Sewer Co. does so, Rural Water Company shall file a Section 851 application requesting California Public Utilities Commission (Commission) authorization to transfer all of Rural's sewer utility assets to Cypress Ridge Sewer Co. upon certification of Cypress Ridge Sewer Co.
- b. Rural Water Company shall change its name to Rural Sewer Company, Inc. and request Commission approval to amend the current Cypress Ridge Sewer Co. tariffs to reflect that sewer service is provided by Rural Sewer Company, Inc. In this event, Rural Sewer Company shall

obtain from Cypress Ridge Sewer Co. all easements and other assets related to the provision of sewer service.

- c. Rural Water Company, in conjunction with Cypress Ridge Sewer Co., shall seek Commission authorization pursuant to Public Utilities Code Section 854 to merge, with Rural to survive, and thereafter Rural shall be renamed Cypress Ridge Sewer Co.

11. Rural Water Company and Cypress Ridge Sewer Company (or successor public utility sewer entity) shall each include, as part of their next General Rate Case, or by December 31, 2018, whichever occurs earlier, a recommended plan for the future continuation of sewer service to the customers of Cypress Ridge Sewer.

- 12. Application 13-10-011 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.